

RECEIVED BY CLERK  
Item # 02-168  
CZAB # 10 Exhibit # C-2  
FEB 18 2003  
CLERK OF THE BOARD

This instrument was prepared by:

Name: Ben Fernandez, Esq.

Address: Bercow & Radell, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

(Space reserved for Clerk)

**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned Owner hold the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A", attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion attached as Exhibit "B", and

*IN ORDER TO ASSURE* the Community Zoning Appeals Board 10 and Concerned Citizens of West Dade, Inc. Subdivision No. 1, a not-for profit corporation ("West Dade"), that the representations made by the owner during consideration of Public Hearing No. 02-168 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property: as follows:

1. That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by *Thomas & Calzadilla Metropolitan Architects* titled, "Coral Way & 147<sup>th</sup> Avenue", consisting of 4 sheets, dated the 20<sup>th</sup> day of January, 2003, said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement.

2. That the total number of units on the Property shall not exceed 154.
3. That subject to all necessary approvals from Miami-Dade County, a five (5) foot masonry wall shall be provided and maintained along the Southwest 26<sup>th</sup> Street frontage of the Property setback approximately two (2) feet from the Property line. A hedge shall be provided between the wall and the Property line.
4. That the garages for the homes on the Property shall not be enclosed with a masonry wall or otherwise.
5. That each lot within the west 75 feet of the Property shall have a minimum width of forty-five feet (45').
6. That each townhouse with the west 75 feet of the Property shall be no less than 2,300 square feet in size and shall include a garage capable of accommodating at least two (2) passenger cars.
7. That all townhomes shall provide a garage capable of accommodating at least one (1) passenger car.
8. That any modification to the Site Plan shall require the written approval of Concerned Citizens of West Dade, Inc. Subdivision No. 1.



**A. County Inspection.**

As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County Department of Planning and Zoning, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

**B. Covenant Running with the Land.**


This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

**C. Term.**

This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

**D. Modification, Amendment, Release.**

This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of



Miami-Dade County, Florida, or other procedure permitted under the Miami-Dade County Code, whichever by law has jurisdiction over such matters, after public hearing, if required.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

**E. Enforcement.**

Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

**F. Authorization for Miami-Dade County to Withhold Permits and Inspections.**

In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

**G. Election of Remedies.**

All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

**H. Presumption of Compliance.**

Where construction has occurred on the Property or any portion thereof, pursuant to a lawful

permit issued by the County, and inspections made and approval of occupancy given the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

**I.     Severability.**

Invalidation of any one of these covenants, by judgment of Court in no way shall not affect any of the other provisions which shall remain in full force and effect.

**J.     Recording.**

This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost to the Owner following the adoption by the Miami-Dade County Board of County Commissioners or Community Zoning Appeals Board of a resolution approving the Application.

**[SIGNATURE PAGE(S) TO FOLLOW]**



ACKNOWLEDGMENT

INDIVIDUAL

Signed, witnessed, executed and acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

WITNESSES:

[Signature]  
Signature

MICHEL BESO  
Print Name

[Signature]  
Signature

Alejandro Sanchez  
Print Name

[Signature] Sr Vice President  
Print Name: SA/B WABCA/BOL6

Address:  
2010 NE 214 TER  
MIAMI FLA 33179

STATE OF Florida

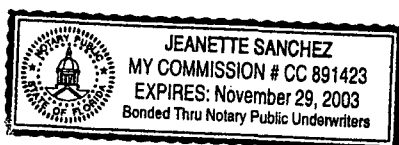
COUNTY OF Dade

The foregoing instrument was acknowledged before me by Solo WABCA/BOL6, who is ☒ personally known to me or ☐ has produced \_\_\_\_\_, as identification.

Witness my signature and official seal this 4th day of February, 2003 in the County and State aforesaid.

[Signature]  
Notary Public-State of Florida  
JEANETTE SANCHEZ  
Print Name

My Commission Expires:



### JOINDER BY MORTGAGEE

The undersigned PointeBanka Banking <sup>Florida</sup>, corporation, and Mortgagee under a certain mortgage recorded on 09/07/2001 in Official Records Book 19887, Page 4751 of the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing agreement, do hereby acknowledge that the terms of this Declaration of Restrictions are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 13 day of February, 2003.

Witnesses:

[Signature]  
Signature

John P. Dover  
Print Name

[Signature]  
Signature  
JOHN A. VOLZBERG

POINTE BANK, a Florida banking  
corporation

Address:

21845 Powerline Road

Boca Raton, Florida 33433

[Signature]  
By: Ronald Blumstein, V.P.

Authorized Representative

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by Ronald Blumstein V. President  
of Pointe Bank, on behalf of the corporation. He is personally known to me.

Witness my signature and official seal this 13 day of February, 2003, in the County and State aforesaid, the date and year last aforesaid.

[Signature]  
Notary Public State of Florida

My Commission Expires:

Kikki L. Moorman  
Print Name



## **Exhibit "A"**

### **LEGAL DESCRIPTION:**

THE NORTH ¼, OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 54 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA.  
CONTAINING 435,571 SQUARE FEET, 9.9993 ACRES.

AND,

THE SOUTH ½ OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 54 SOUTH, RANGE 39 EAST, LESS THE SOUTH 50.00 FEET THEREOF FOR RIGHT-OF-WAY OF SOUTHWEST 26TH. STREET (CORAL WAY) PER OFFICIAL RECORDS BOOK 18324, PAGE 4152, MIAMI-DADE COUNTY, FLORIDA.  
CONTAINING 402,562 SQUARE FEET, 9.2415 ACRES.



OPINION OF TITLE

To: Miami-Dade County

With the understanding that this Opinion of Title is furnished to Miami-Dade County, as inducement for acceptance of a Declaration of Use/Unity of Title/Declaration of Restrictions/Development Agreement or in compliance with Chapter 28, and as an inducement for acceptance of a proposed final subdivision plat covering, covering the real property, hereinafter described, it is hereby certified that I have examined a complete Abstract of Title covering the period from the beginning to the 8th day of January, 2003, at the hour of 11:00 p.m., inclusive, of the following described property:

I am of the opinion that on the last mentioned date, the fee simple title to the above-described real property was vested in:

CORAL WEST LTD., A FLORIDA LIMITED PARTNERSHIP

Note: For Limited Partnership, Limited Liability Company or Joint Venture indicate parties comprising the Limited Partnership, Limited Liability Company or Joint Venture and identify who is authorized to execute.

Subject to the following encumbrances, liens and other exceptions (If "none" please indicate):

1. RECORDED MORTGAGES: Mortgage executed by Coral West Ltd., in favor of Pointe Bank dated August 28th, 2001 and recorded in Official Records Book 19887 at Page 4751 of the Public Records of Miami-Dade County, Florida.
2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:
3. GENERAL EXCEPTIONS:
4. SPECIAL EXCEPTIONS:

I HEREBY CERTIFY that I have reviewed all the aforementioned encumbrances and exceptions.

Therefore, it is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenant on the lands described herein.

<u>Name</u>	<u>Interest</u>	<u>Special Exception Number</u>
Pointe Bank	Mortgagee	1

The following is a description of the aforementioned abstract and its continuations:

<u>Number</u>	<u>Company Certifying</u>	<u>No. of Entries</u>	<u>Period Covered</u>
CF-0966856	Atty's Title	7	June 24, 2001

I HEREBY CERTIFY that the legal description contained in this Opinion of Title coincides with, and is the same as, the legal description in the proffered, recordable agreement.

I, the undersigned, further certify that I am an attorney-at-law duly admitted to practice in the State of Florida and a member in good standing of the Florida Bar.

Respectfully submitted this 18th day of February, 2003.

[Signature]  
Name IRA PRICE, ESQ.

Print Name 216879

Florida Bar No. 216879

Address: 9100 S. Dadeland Blvd., PH1

Miami, Florida 33156

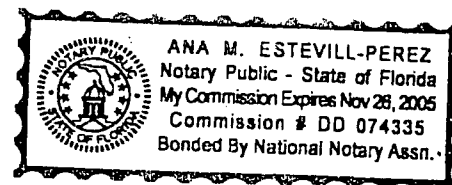
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 18 day of February, 2003  
by Ira Price who is  
personally known to me or has produced personally known as identification.

[Signature]  
Notary Public

Print Name ANA M ESTEVEILL-PEREZ

My Commission Expires:



**Exhibit "A"**

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THE NORTH ¼. OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 9,  
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CONTAINING 435,571 SQUARE FEET, 9.9993 ACRES.

AND,

THE SOUTH ½ OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 9,  
TOWNSHIP 54 SOUTH, RANGE 39 EAST, LESS THE SOUTH 50.00 FEET THEREOF FOR RIGHT-OF-  
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